

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied in part;  
Dismissed in part

**Appeal Number:** 2507280

**Decision Date:** 6/25/2025

**Hearing Date:** 06/09/2025

**Hearing Officer:** Amy B. Kullar, Esq.

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kelly Rayen, R.N., Clinical Reviewer, Optum



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied in part; Dismissed in part	<b>Issue:</b>	Prior Authorization; Personal Care Attendant Services
<b>Decision Date:</b>	6/25/2025	<b>Hearing Date:</b>	06/09/2025
<b>MassHealth's Rep.:</b>	Kelly Rayen, R.N.	<b>Appellant's Rep.:</b>	Daughter/Authorized Representative
<b>Hearing Location:</b>	Quincy Harbor South 1 (Telephone)	<b>Aid Pending:</b>	No

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated April 28, 2025, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services. *See* 130 CMR 450.024(A), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(1) and Exhibit 1. The appellant filed this appeal in a timely manner on May 9, 2025. *See* 130 CMR 610.015(B) and Exhibit 2. MassHealth's decision to restrict or modify a member's assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for PCA services.

### Issue

The appeal issue is whether MassHealth was acting within its discretion in modifying the appellant's prior authorization request for PCA services.

## Summary of Evidence

The MassHealth representative appeared via telephone and identified herself as a registered nurse and clinical appeals reviewer. The appellant is an adult MassHealth member who is over the age of [REDACTED]. He was represented at hearing by his daughter. The parties' testimony and record evidence are summarized as follows:

The appellant's medical history includes a primary diagnosis of chronic ischemic heart disease (with stent), and he also suffers from dementia, osteoporosis, osteoarthritis, dual incontinence, severe spinal stenosis, impaired vision, diabetes, COPD, vertigo, extremity edema, transient ischemic attacks (TIAs), and obesity. The appellant resides with his daughter in her home. Testimony and Exhibit 4.

The appellant was re-evaluated for PCA services on March 27, 2025, and on April 28, 2025, his PCM agency, [REDACTED] requested 57 hours and 15 minutes per week of PCA services for the period of 5/19/2025 to 5/18/2026. MassHealth modified this request on April 28, 2025, to 51 hours and 30 minutes per week for the service period of 5/19/2025 to 5/18/2026. Testimony, Exhibit 4. MassHealth made five (5) modifications related to PCA assistance with passive range of motion (PROM), grooming (other), eating, physical assistance with prefilling of medicine box, and meal preparation and cleanup.

Based on the testimony and discussion at hearing, the following four (4) categories are no longer in dispute: PROM, grooming (other), physical assistance with prefilling of medicine box, and meal preparation and cleanup.<sup>1</sup>

The remaining disputed category is eating.

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<sup>1</sup>(1) PROM - the appellant's daughter stated that her father is not bedbound and he is not immobile and he does not receive PROM assistance from his PCA, and she does not know why the PCM requested this task; she agreed to accept the MassHealth modification of zero minutes per week. The appellant's daughter also dropped her disputes as to the modifications in the categories of (2) grooming (other) – this task was requested for “diabetic foot checks” which the appellant's daughter confirmed that the VNA already performs for the appellant; the appellant accepted MassHealth's modification to this category (3x1x7, or 21 minutes per week), (3) physical assistance with prefilling of medicine box; it was confirmed at hearing that another agency performs this task for the appellant, and therefore, the appellant accepted MassHealth's modification (zero minutes per week), and (4) meal preparation and cleanup; it was confirmed at hearing that the appellant resides in a household with another PCA consumer and therefore this is a shared PCA task among the residents of the home, and the appellant accepted MassHealth's modification (90x1x7, or 630 minutes per week). Testimony.

## Eating

The MassHealth representative testified that ten minutes per day, three episodes per day, seven days per week (10x3x7), or 210 minutes per week, was requested for PCA assistance with eating. MassHealth modified this request to zero minutes per week. The PCA task of eating consists of the PCA physically feeding the appellant his meal. The appellant suffers from dysphagia and has frequent choking episodes while eating. The MassHealth representative stated that the documentation that was submitted by the appellant's PCM emphasized the risks that are involved when the appellant is eating; based upon the documentation, there is a constant need to monitor the appellant for safety when he eats. The documentation also indicates that the appellant is categorized as needing "minimum" assistance with eating and that he feeds himself, with PCA supervision during his meals. Testimony and Exhibit 5 at 42. Unfortunately, the PCA program does not cover supervision or monitoring for safety; the PCA program only covers the time for the task, and in this category, that means "hands-on" feeding of the appellant by the PCA, which is not the task that the PCA is performing for the appellant. Testimony.

In response to this testimony, the appellant's daughter confirmed that her father experiences frequent choking episodes and he requires constant monitoring during meals. She stated that while her father is eating, he regularly requires emergency intervention, such as the Heimlich maneuver. The appellant's daughter testified that while her father is eating, the PCA will sit next to him, and the PCA will remove food from her father's mouth if he begins to choke. In response, the MassHealth representative stated under the regulations, MassHealth maintains that only physical assistance (feeding the appellant) is covered under the eating category, but not supervision or safety monitoring, which is what the appellant's daughter is describing. According to the appellant's daughter's testimony, the appellant's PCA only participates in the "eating" episodes when they are removing food from the appellant's mouth or performing lifesaving measures, and this is not covered by the regulations. Testimony.

## **Findings of Fact**

Based on a preponderance of the evidence, I find the following:

1. Appellant is a MassHealth member over the age of [REDACTED] and lives in the community with his daughter.
2. Appellant has a primary diagnosis of chronic ischemic heart disease (with stent), and he also suffers from dementia, osteoporosis, osteoarthritis, dual incontinence, severe spinal stenosis, impaired vision, diabetes, COPD, vertigo, extremity edema, TIAs, and obesity. Testimony and Exhibit 4.
3. On April 28, 2025, appellant's PCM agency sent MassHealth a PA request 57 hours and

15 minutes per week of PCA services for the period of 5/19/2025 to 5/18/2026. Testimony and Exhibit 4.

4. On May 5, 2025, MassHealth modified the request in five (5) categories and approved the appellant for 51 hours and 30 minutes per week for the service period of 5/19/2025 to 5/18/2026; specifically, by modifying the time for “passive range of motion (PROM), grooming (other), eating, physical assistance with prefilling of medicine box, and meal preparation and cleanup.” Exhibits 1 and 4.
5. At hearing, MassHealth and the appellant’s daughter resolved the dispute as to the passive range of motion (PROM) category and agreed that this category would be approved as modified to zero minutes per week, resolving the dispute related to PCA assistance with this task. Testimony.
6. At hearing, MassHealth and the appellant’s daughter resolved the dispute as to the grooming (other) category and agreed that this category would be approved at three minutes per episode, one time per day, seven days per week (3x1x7 or 21 minutes per week), resolving the dispute related to PCA assistance with this task. Testimony.
7. At hearing, MassHealth and the appellant’s daughter resolved the dispute as to the physical assistance with prefilling of medicine box category and agreed that this category would be approved as modified to zero minutes per week, resolving the dispute related to PCA assistance with this task. Testimony.
8. At hearing, MassHealth and the appellant’s daughter resolved the dispute as to the meal preparation and cleanup category and agreed that this category would be approved at ninety minutes per episode, one time per day, seven days per week (90x1x7, or 630 minutes per week), resolving the dispute related to PCA assistance with this task. Testimony.
9. The appellant seeks time for PCA assistance with eating as follows: ten minutes per day, three episodes per day, seven days per week (10x3x7). Testimony and Exhibit 4.
10. MassHealth approved zero minutes for PCA assistance with eating. Testimony and Exhibit 4.
11. The appellant resides in a household with his daughter and another PCA consumer. Testimony and Exhibit 4.

## Analysis and Conclusions of Law

MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all of the following conditions are met:

- (1) The personal care services are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care.
- (2) The member's disability is permanent or chronic in nature and impairs the member's functional ability to perform ADLs and IADLs without physical assistance.
- (3) The member, as determined by the personal care agency, requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A):
  - (a) mobility, including transfers;
  - (b) medications,
  - (c) bathing or grooming;
  - (d) dressing or undressing;
  - (e) range-of-motion exercises;
  - (f) eating; and
  - (g) toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

*See* 130 CMR 422.403(C).

Here, there is no dispute that appellant meets all the prerequisites to qualify for PCA services. This appeal addresses whether MassHealth allotted sufficient time, in accordance with program regulations, for appellant to receive PCA assistance to meet his care needs. The requested services must also be medically necessary for the prior authorization request to be approved. MassHealth will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

A service is "medically necessary" if:

- 1) it is reasonably calculated to prevent, diagnose, prevent worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- 2) there is no other medical service or site of service, comparable in effect,

available, and suitable for the member requesting the service, that is more conservative or less costly to the Division. Services that are less costly to the Division include, but are not limited to, health care reasonably known by the provider or identified by the Division pursuant to a prior authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

- (B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the Division upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)
- (C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

See 130 CMR 450.204.

Pursuant to 130 CMR 422.410(A), activities of daily living include the following:

- (1) mobility: physically assisting a member who has a mobility impairment that prevents unassisted transferring, walking, or use of prescribed durable medical equipment;
- (2) assistance with medications or other health-related needs: physically assisting a member to take medications prescribed by a physician that otherwise would be self-administered;
- (3) bathing or grooming: physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills;
- (4) dressing or undressing: physically assisting a member to dress or undress;
- (5) passive range-of-motion exercises: physically assisting a member to perform range-of-motion exercises;
- (6) **eating: physically assisting a member to eat. This can include assistance with tube-feeding and special nutritional and dietary needs; and**
- (7) toileting: physically assisting a member with bowel and bladder needs.

MassHealth **does not cover** any of the following as part of the PCA program or the transitional living program:

- (A) social services, including, but not limited to, babysitting, respite care, vocational rehabilitation, sheltered workshop, educational services,

- recreational services, advocacy, and liaison services with other agencies;
- (B) medical services available from other MassHealth providers, such as physician, pharmacy, or community health center services;
- (C) assistance provided in the form of **cueing, prompting, supervision, guiding, or coaching**;
- (D) PCA services provided to a member while the member is a resident of a nursing facility or other inpatient facility;
- (E) PCA services provided to a member during the time a member is participating in a community program funded by MassHealth including, but not limited to, day habilitation, adult day health, adult foster care, or group adult foster care;
- (F) **services provided by family members**, as defined in 130 CMR 422.402; or
- (G) surrogates, as defined in 130 CMR 422.402.

See 130 CMR 422.412 (emphases added).

The appeal is dismissed as to PCA assistance with passive range of motion (PROM) because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. MassHealth and the appellant's representative agreed that the appellant does not receive PROM assistance from his PCA and that this category should not have been requested by the appellant's PCM, and the appellant's representative accepted MassHealth's modification to zero minutes per week, which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.

The appeal is dismissed as to PCA assistance with grooming (other) because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. MassHealth and the appellant's representative agreed to three minutes per episode, once per day, seven days per week (3x1x7, or 21 minutes) for PCA assistance with grooming (other), which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.

The appeal is dismissed as to PCA assistance with physical assistance with prefilling of medicine box because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. MassHealth and the appellant's representative agreed that the VNA provides this service to the appellant and the appellant's representative accepted MassHealth modification to zero minutes for this category, which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.



The appeal is dismissed as to PCA assistance with meal preparation and cleanup because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. MassHealth and the appellant's representative agreed to ninety minutes per episode, one time per day, seven days per week (90x1x7, or 630 minutes) for PCA assistance with meal preparation and cleanup, which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.

As to the appellant's request for PCA assistance with eating, this portion of the appeal is denied. This category is for the time allotted for the PCA to feed the appellant his daily meals. The appellant's PCM requested ten minutes per eating episode, three times per day, seven days a week for weeks (10x3x7). This request was modified by MassHealth to zero minutes per week. The testimony of the MassHealth representative was very persuasive for this category. She described the process and participation of the PCA in the feeding of the appellant, as testified to by his daughter, as supervisory and more concerned with monitoring and safety than the PCA physically performing the feeding task. The appellant's daughter credibly described the difficulties the appellant has with eating, but unfortunately, she did not describe a situation where the PCA is actually feeding the appellant his meals. The activity of the PCA while the appellant is eating can only be described as supervisory. The PCA removes food from the appellant's mouth, but the appellant feeds himself. I agree that how the appellant eats is potentially dangerous and requires supervision, but the appellant's daughter described eating episodes where the PCA was only providing coaching, supervision, and monitoring, and these are not PCA tasks under the regulations.

This portion of the appeal is therefore DENIED.

## **Order for MassHealth**

Remove aid pending.

For the prior authorization period 5/19/2025 to 5/18/2026, approve the following amounts of PCA assistance for the appellant:

- Passive range of motion (PROM): zero minutes per week;
- Grooming (other): 3x1x7 (21 minutes per week);
- Physical Assistance with prefilling of medicine box: zero minutes per week;
- Meal preparation and cleanup: 90x1x7 (630 minutes per week);
- Eating: zero minutes per week.

## Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Amy B. Kullar, Esq.  
Hearing Officer  
Board of Hearings

cc:

cc: MassHealth Representative: Optum MassHealth LTSS, P.O. Box 159108, Boston, MA 02215